IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

L.P.A. No. 202 of 2007 (O.&M.)
Date of Decision: 12.10.2007

Hissar-Sirsa Kshtriya Gram Bank, now Haryana Gram Bank.

..... Appellant through Shri G.S.Bajwa, Advocate.

Versus

Union of India and others.

..... None for Respondents.

CORAM: HON'BLE MR. JUSTICE VIJENDER JAIN,
CHIEF JUSTICE
HON'BLE MR.JUSTICE MAHESH GROVER

....

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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VIJENDER JAIN, CHIEF JUSTICE

C.M.No.839 of 2007

For the reasons stated therein, this application is allowed and the delay of 88 days in the filing of the appeal is condoned.

C.M.No.840 of 2007

This application is accepted and the delay of 34 day sin the re-filing of the appeal is condoned.

L.P.A.No.202 of 2007

This appeal, under Clause X of the Letters Patent, has been directed against judgment dated 3.4.2007 whereby the learned Single Judge

accepted C.W.P.No.3157 of 1992 filed by respondent no.4- Dinesh Chander Kathpalia.

The only contention that has been raised by the learned counsel for the appellant is that even though, respondent no.4 was selected for the post of Field Supervisor which had been equated with the post of O.J.M. Scale-I w.e.f. 23.2.1991, yet, he did not acquire any indefeasible right to be appointed to the post and, therefore, the directions given by the learned Single Judge are erroneous and contrary to the law laid down by the Supreme Court in Shankarsan Dash Versus Union of India, 1991(2) S.L.R. 779.

We have heard the learned counsel for the appellant and have perused the record including the impugned judgment.

Respondent no.4 was selected through a proper selection procedure initiated by the appellant through advertisement dated 24.1.1990 and the letter of recommendation in his favour was issued by the competent authority on 9.3.1991. The letter dated 22.2.1991 by which the posts of Field Supervisors were abolished as a cadre does not mean that the posts were abolished as they had been equated with the posts of OJM Scale-I. That apart, despite this letter having come into existence on 22.2.1991, respondent no.4 was still issued the letter of recommendation on 9.3.1991, i.e., subsequent to the alleged abolition of the posts of Field Supervisors on 22.2.1991.

If the appellant had actually abolished the posts of Field Supervisors in February,1991, then there was occasion for the competent

authority to issue the letter of recommendation in favour of respondent no.4 in March,1991 when it was conscious of its own decision.

The judgment cited by the learned counsel for the appellant does not enhance his case in any manner because in that case the Apex Court was dealing with a case where there were rules and regulations which prescribed that a candidate could be considered for appointment to the available vacancy subject to other rules and regulations. Regulation 13 of the Appointment by Competitive Examination Regulations,1965, which were under consideration in that case, clarified that a candidate did not have any right for appointment by mere inclusion of his name in the select list. It was in that back-drop that the Apex Court had observed that a candidate did not acquire any indefeasible right to appointment in the eventuality of his being selected.

The chronology of the events as given above leaves no room for doubt that the action of the appellant suffers from the vice of arbitrariness as despite the alleged abolition of the cadre of Field Supervisors, it had gone ahead with the selection and subsequent recommendations.

Hence, there is no infirmity in the impugned judgment and the appeal, being devoid of any merit, is dismissed.

(Vijender Jain)
Chief Justice

October 12,2007
"SCM"

(Mahesh Grover)
Judge